

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PA

SIVATHARAN NATKUNANATHAN,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 10332-14 L
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER AND DECISION

On June 9, 2015, we issued a Memorandum Opinion (T.C. Memo. 2015-106) in this collection due process (CDP) case. On June 10, 2015, we entered an Order and Decision sustaining the notice of determination concerning collection on which the case is based. On July 13, 2015, petitioner filed a document styled “motion for reconsideration, to vacate decision, and remand for trial.” We denied that motion the next day.

On July 2, 2015, respondent filed a Motion to Permit Levy. The effect of granting this Motion would be to allow the IRS to levy immediately in an effort to collect petitioner’s 2003 tax liability, without waiting for the expiration of the time for petitioner to appeal this Court’s decision and seek certiorari. We ordered petitioner to respond to the IRS motion by July 29, 2015. Petitioner has filed no response.

A taxpayer’s request for a CDP hearing automatically suspends the levy process “for the period during which such hearing, and appeals therein, are pending.” Sec. 6330(e)(1). However, section 6330(e)(2) provides that this suspension “shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.” See Burke v. Commissioner, 124 T.C. 189 (2005). Here, as noted in our Memorandum Opinion, Natkunanathan v. Commissioner, T.C. Memo. 2015-106, at *5, petitioner’s underlying tax liability for 2003 is not at issue. So the only question is whether respondent has shown “good cause not to suspend the levy” during the appeal process.

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We have no difficulty concluding that respondent has shown “good cause.” Five years ago, we determined a deficiency and an addition to tax for petitioner’s 2003 taxable year. Natkunanathan v. Commissioner, T.C. Memo. 2010-15. Petitioner appealed that decision to the Court of Appeals for the Ninth Circuit, which affirmed. Natkunanathan v. Commissioner, 479 Fed. Appx. 775 (2012). Petitioner then filed several motions in the U.S. Supreme Court seeking permission to file a petition for writ of certiorari out of time; each motion was denied. Undeterred, petitioner attempted to file numerous other documents with the Supreme Court, which led the Court to bar him from making additional filings. Indeed, in his motion for reconsideration of our opinion, which we denied on July 14, 2015, petitioner persists in arguing that the Supreme Court erred in determining that his petitions for certiorari were untimely.

The IRS seeks to use its levy power to collect a tax liability that petitioner incurred 12 years ago. In light of petitioner’s litigiousness and the frivolous nature of many of his filings, the IRS should not be forced to wait until he has pursued what may be many more months of fruitless litigation. Petitioner has “used the collection review procedure to espouse frivolous and groundless arguments and otherwise needlessly delay collection.” Burke, 124 T.C. at 197. To reflect the foregoing, it is

ORDERED that the Court’s original Order and Decision in this case, entered June 10, 2015, is vacated. It is further

ORDERED that respondent’s motion for summary judgment, filed January 23, 2015, is granted. It is further

ORDERED that respondent’s Motion to Permit Levy, filed July 2, 2015, is granted. It is further

ORDERED AND DECIDED that respondent’s Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 dated April 14, 2014, upon which this case is based, is sustained; respondent may proceed with collection action as determined in that notice.

(Signed) Albert G. Lauber
Judge

ENTERED: **JUL 30 2015**